

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Marc Simpson**

Petitioner-Appellant,

v.

**Muscatine County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 09-70--0031  
Parcel No. 001+0101379016**

On September 8, 2009, the above-captioned appeal came before the Iowa Property Assessment Appeal Board. A written consideration was requested by the Appellant, Marc Simpson. The written consideration was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Muscatine County Board of Review designated First Assistant County Attorney, Dana E. Christensen, as legal representation. The Appeal Board having reviewed the entire record and being fully advised, finds:

***Findings of Fact***

Marc Simpson protested to the Muscatine County Board of Review in regards to his property located at 200 West 16th Street, West Liberty, Iowa. The 2009 assessment is allocated as follows: \$36,320 in land value and \$173,710 in improvement value for a total assessment of \$210,030. This assessment is a decrease from the 2008 assessment which was \$219,550. The subject property is a one-story home built in 2003 with 1644 square feet of above-grade living area, 375 square feet of basement finish, and an attached two-car garage.

To the Board of Review, Simpson claimed the following grounds under Iowa Code section 441.37: inequity, more than authorized by law, error, and downward change. Simpson, in a letter to the Board of Review, claimed the market value of the property was incorrect based upon a recent appraisal. He supplied the appraisal to the Board of Review and that Board denied the appeal, stating "assessed value does not exceed amount authorized by law."

Simpson then protested to this Board on the single ground that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(b).

The Board of Review provided the certified record and identified documents A thru I. These included the property record cards for the subject property, the four properties cited by Simpson in the protest to the local Board with regards to inequity, and two of the four comparable properties utilized in the appraisal submitted by Simpson. The Board of Review also provided evidence showing the Simpsons were advised that an inspection of their property would take place on May 1, 2009, at 3:00 pm. The case notes from the inspection indicate that "no one was there" and the property was entered through an unlocked door to facilitate the inspection. The Board of Review notes indicate the basement had a 16 x 18 area and half-bath [finish]. This confirms the data presented in the appraisal indicating 375 square feet of basement finish.

The Board of Review additionally provided to this Board, exhibits J thru N for consideration, by fax the day of the hearing. However, these exhibits were not provided in a timely manner, nor were they provided to Simpson within the required ten days prior to hearing. The bulk of the exhibits are considered irrelevant to this protest, as they pertain to a question of inequity, whereas Simpson's sole claim before this Board is greater than market value. Any exhibits which may have been considered to offer relevance to this issue were not admitted due to lack of timeliness.

Mr. Simpson presented an appraisal to the Board of Review and this Board. The appraisal has an effective date of January 20, 2009, and was completed by Mike Jones of Mike Jones Appraisal and



concluded a value of \$197,000 by the sale comparison approach. Although the effective date is after the assessment date of January 1, 2009, three of the four comparables had closing dates prior to the assessment date. The fourth comparable in the report was an active listing. The presentation and analysis of the appraisal is considered to be reasonable and credible by this Board.

The pre-adjusted sales prices of the four properties presented is \$197,500 to \$218,000 with the upper end of this range being set by the largest property with the most basement finish. The adjusted sales/list prices of the properties presented is \$187,270 to \$207,460 with the upper end of the range set by the only sale outside of the immediate community. The three properties located in West Liberty indicate an adjusted sales/list price range of \$187,270 to \$197,505, with the active listing setting the upper end of this range.

Mr. Simpson also provided another sale located at 105 E 16th Street. This property was originally listed in September of 2008 for \$215,000 – selling in April of 2009 for \$194,900. This property contains 1454 square feet of above grade living area; 947 square feet of basement finish; a two-car attached garage and was new construction.

The subject property card supplied by the Board of Review has a note dated April 10, 2009, which states, in part, that an appraisal done for refinancing had been submitted. The cost approach in this appraisal was figured at \$89 per square-foot and the comparables' [unadjusted] price per square-foot was \$139, \$120, and \$159.

It appears to this Board that the note may be incorrect in stating that the cost approach was figured at \$89 per square-foot, as that figure is reflective of the improvements only (above grade and basement area). The total cost per square-foot in the appraisal is \$121, taking \$198,997 (indicated value by cost approach) divided by the gross living area of 1644. The comparables referenced in the note are analyzed based upon the pre-adjusted sales price per square-foot, rather than the adjusted sales price per square-foot which would more accurately represent their comparability to the subject.

The Board of Review does not provide any comment as to why they believe the property is assessed at market value, when an appraisal was supplied by the property owner that indicates a lower value. It would seem reasonable that the Board of Review would have provided some comment relating to the supplied appraisal, regarding their opinion on the credibility and reliability of that document, especially given the denial based upon the assertion "assessed value does not exceed amount authorized by law."

Based upon the foregoing, the Appeal Board finds that Mr. Simpson has provided sufficient evidence to prove that the assessed value is greater than market value.

### ***Conclusions of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or



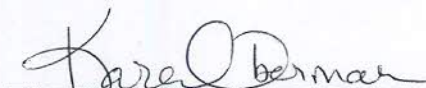
comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

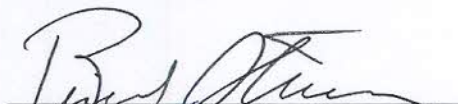
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

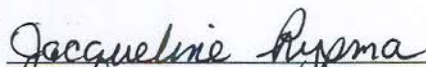
Mr. Simpson offered an appraisal which was completed for refinancing purposes and reflective of fair market value. The appraisal utilized comparables which pre-date the assessment date of January 1, 2009. The appraisal shows the property is over assessed and shows what the actual value of the property should be. The Board of Review offers no explanation as to why they believe this appraisal is not credible, nor do they offer any substantive support to challenge the credibility.

THE APPEAL BOARD ORDERS that Simpson's appeal is upheld, as sufficient evidence was presented to demonstrate that the assessment is in excess of the market value. The property assessment of \$210,030 as of January 1, 2009, set by the Muscatine County Board of Review, is modified to be reflective of the demonstrated market value for a total assessment of \$197,000, allocated as follows: \$40,000 for the land and \$157,000 for the improvements.

Dated this 18 day of November 2009

  
Karen Oberman, Presiding Officer

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

Marc Simpson  
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West Liberty, Iowa 52776  
APPELLANT

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ATTORNEY FOR APPELLEE

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-18</u> , 200 <u>7</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	